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## Time to get your house in order?

The news that HM Revenue & Customs (HMRC) have arrested and are to prosecute 5 plumbers for failing to pay the right amount of tax should be sending shock waves through the small business community. The Revenue's announcement also advised that a further 600 plumbers are under civil investigation and that further raids on their property may be planned.

The message from HMRC is clear; get your house in order, when it comes to filing self assessment returns and paying tax. All of those involved were contacted by HMRC and offered an opportunity to come forward with a voluntary disclosure. That same situation had already been offered to members of the medical profession and these cases are also being worked on with a view to further criminal proceedings.

When talking about plumbers HMRC have been referring to the "ghost" status of many of the 600. Whether this means that they do not declare any income at all or are viewed to have a large percentage of their income as undeclared cash earnings is not particularly clear but it does appear that letters are being sent safe in the knowledge that an additional tax take will arise.

We are aware that these enquiries into specific trades will continue and that HMRC already have a shopping list which includes Accountants and Lawyers so it looks like nobody is being left out! So what should we do from here?

Certainly we should consider whether monies we receive, or have received, are taxable under self assessment and if they are make sure that they get included within our business or self assessment records. We should remember that HMRC have started a campaign of reviewing business records to identify whether the costs



we are claiming are wholly and necessarily incurred for the purpose of the trade being undertaken.

Feedback on these business reviews suggest that HMRC believe that everyone should be completing a mileage log to identify their correct business mileage and in the case of sole traders and partnerships the correct percentage of costs allowed. They are also focusing upon the system for sales invoicing and seeking a consecutive numbering system allowing them to ask questions about missing numbers.

If anyone has income that has not been taxed, for whatever reason, and wishes to come forward and disclose it to HMRC then the penalties charged in these circumstances are often less than they would be if you fail to heed one of the letters sent out by HMRC referred to above. In the case of the plumbers the rates were 10% to a maximum of 20% for full disclosure against a maximum of 100% and possible prosecution for being brought to the table.

We are lucky that we do not see many serious investigations at Lambert Chapman but our team have all the required skills to guide you through if the need arises. If you would like advice on either the HMRC attack on specific trades or the new regime of record reviews please do not hesitate to talk to your local Lambert Chapman LLP contact.



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# Is that dividend legal?



Nick Forsyth

Years ago HM Revenue & Customs (HMRC) would pursue a Director personally whose Company had ceased trading with unpaid PAYE liabilities relating to their own salary. We have not seen this situation in recent times because salaries have been low and dividends have made up the balance of earnings but HMRC have now taken a different tack; "Were the dividends drawn legal?"

For a dividend to be legal it must be drawn from distributable profits. Sometimes this gets confused by small business owners with having cash at bank but we need to remember that corporation tax needs to be paid from this cash first leaving us a lower sum available for distribution.

If these additional liabilities are not considered then too much money can be distributed and this can make the dividend illegal. Whilst the Company continues to trade all the accounts would have to state is that an illegal dividend has been paid. However, if no further profits are made or if the company fails the recipient may find a request for repayment from a liquidator or HMRC trying to contend that the drawing was in fact earnings and tax should therefore be paid.

It is therefore important that directors are clear about the status of a dividend before it is paid to make sure that no attack can be brought against them or the company at a later date. The financial status of the Company needs to be considered to make sure that sufficient distributable reserves exist at the date of payment. If your dividend drawings are monthly then part of your procedure must be to look at your Management Accounts for if things go wrong HMRC may well argue that you 'as a director' had all the information to determine that the payment was illegal.

It is not necessary for full accounts to be prepared for each dividend but it is important that the Management Accounts provide "a reasonable judgement to be made as to the amount of the distributable profits" available.

Having established this it is important to get your paperwork right. This must be minuted and Lambert Chapman use a standard text to deal with this. It must be done each time a dividend payment is made.

We currently do the paperwork to support your payments and then finalise this with the year end accounts. With the current economic climate and HMRC pressing for repayment if they can cite illegal dividends these procedures might need tightening up. Firstly, in the minutes, reference to what you have used to determine that sufficient profits exist to make the payment should be made.

What this means is that something extra might need to be prepared to support a payment and it makes sense to file it with the prepared minute. What it might mean is that our habits change and in some respects that might be no bad thing.

If you have sufficient retained profits to make a larger payment and reduce your dividends from twelve to two a year then this might be of assistance. It might mean re-crediting your dividend to a loan account followed by monthly draw down but is this such a hardship if it helps you comply with the law?

If you cannot utilise this situation there may well be additional costs for the business but we would of course offer tuition to allow you to get as far as possible on your own. For more information and advice on this area please contact Nick or your local Lambert Chapman contact.

## Got a QR code?

A Quick Response code is a type of matrix barcode created by Toyota in 1994 to track vehicles during manufacture. These days they are being widely used to allow smart phone users to access a website to find information about a product. To use it download a barcode scanner and then point it at the QR code. Once it registers the squares will display green lights and the target link will display itself to open your browser.



## Seen our Brochure?

One of our most important tasks is to make sure that you are aware of all the services that we can provide to you. If we don't we risk losing your custom when something a little special comes along and often that's where we can excel by calling upon the specialists that we have in house. We've recently published a new brochure and would love to provide you with a copy of it. Simply email Nick Forsyth at [nick@lambert-chapman.co.uk](mailto:nick@lambert-chapman.co.uk) or call him on 01376 326266 and a copy will be sent to you by return.

# Featured Service:

## Management Accounts



We take your books and records and process the regular adjustments required to create your business management accounts.

We undertake this process on a monthly, quarterly or six monthly basis and the accounts are often forwarded to third parties in support of finance facilities.

We assist a number of clients in the preparation of their Management Accounts so that they can monitor their performance throughout the financial year. This might be a minimum of a 10 month tax planning set of figures, six monthly or the more usual quarterly or monthly. Our role is to take the reconciled bookkeeping entries and "top and tail" them to produce the figures.

If you have an operating budget we like to compare this to the actual figures producing variances for both the profit and loss and balance sheet. For some businesses we also prepare a variance analysis of the cash flow and use this to determine how this may affect a facility in the future.

So how do you determine which regularity of Management Accounts you need? Excluding as a requirement of a funding debenture, essentially it depends upon the size of the business. If you are smaller and your costs and margin are more static then a monthly review of just your sales might provide a good indication of where you are, backed up by a full quarterly review.

If you are larger and in growth mode or finding sales hard to come by then a full monthly review would help to confirm that profits are following through to bottom line or when a review of costs might be needed.

All of our Accounts Partners are able to deliver this service so if you need more information please do not hesitate to contact them.



# 1 October brings equality for agency workers



David Kemp

From 1 October 2011, after a certain period of time, workers supplied to a company (or to any entity) by an agency will become entitled

to receive the same equivalent pay and basic working conditions as any directly employed employees doing similar work. In many cases, until now, agency workers have received significantly less pay than the entity's employees and have also not had entitlement to a number of other employee benefits.

This entitlement is to begin after a 12 week qualifying period. This 12 week period commences 1 October 2011 for existing agency workers. If the employer wishes to avoid any additional cost and chooses to end the agency worker's contract within 12 weeks, there will need to be a break of more than 6 weeks between assignments with the same employer. The regulations inevitably include comprehensive anti-avoidance provisions dealing with issues such as moving the agency worker to a different department to try to avoid the obligation!

The changes also mean that from 1 October 2011, agency workers have an entitlement to access

employer supplied facilities such as canteens, car parking, transport services and childcare from the first day they work for the entity, though if there were a waiting list they would have to wait until the facility became available. There are also various provisions concerning pregnant workers and new mothers who, for example, would be entitled to attend antenatal medical appointments and classes after completing a 12 week qualifying period.

Where it is likely a temporary worker may benefit from the regulations, the agencies supplying the workers will require the hiring entity to provide information about pay and basic working conditions. The agencies bear the main practical responsibility for ensuring the appropriate comparability is achieved but obviously will pass on all relevant additional costs.

Breaches of the regulations, which could be committed either by the agency or the employer, may be dealt with by Employment Tribunals though the involvement of ACAS is encouraged prior to taking this step.



Comprehensive guidance of 51 pages was published in May 2011 by BIS (Department for Business Innovation & Skills) and is available on their website.



For advice call David Kemp on 0845 921 6800

## Angela Pannell considers Home to Work travel

When deciding whether the cost of travelling from home to the place of work is deductible for tax purposes one needs to establish where the base of operation is.

If it is established that the base of operations is at home then the travel would be deductible.



Angela Pannell

Where the office work is carried out for the trade does not necessarily determine where the base of operation is. The base of operations must be where the main trade operations are carried out.

HM Revenue and Customs use the example of a shopkeeper in their guidance manuals. The base of operations for a shopkeeper would be the shop because that is where the customers go to obtain the services the shopkeeper provides. The shopkeeper may do the office work at home but the costs of travel between home and the shop are not allowable. Those costs are incurred to enable the shopkeeper to live away from the shop and such expenses fail the "wholly and exclusively" for trade test. The expenditure is not for the purpose of the trade it is for the private purpose of living away from the shop.

In the case of Newsom v. Robertson it was established that the home to work travel expenses were not deductible. Mr Newsom, a barrister, did the greater part of his work in his chambers. Work was taken and completed at home and therefore the profession is carried out at two places. The travel between those two places is not wholly and exclusively for the purpose of carrying on his profession, but to allow travel between his place of residence and his place of work. i.e. to enable Mr Newsom to live away from the place where the work is carried out.

In a more recent case Mr Mellor, an electrician, was successful in establishing that his home to work travel was deductible. It was concluded that a sub-contractor such as the Appellant must have a base for his business. The question was where the base is. It was decided that the base of the trade was Mr Mellor's home address as:

- Mr Mellor coordinated his business activities from home and received the electrical drawings which allowed him to make quotes at the home address. It was not possible to receive them elsewhere.
- Mr Mellor prepared the quotes at home as it would not be practical to prepare them on site of the proceeding contract.
- Mr Mellor's main contact was his home land line number.
- Mr Mellor kept his tools at home as he could not leave them on the various sites.

If HM Revenue and Customs enquire into your business expenses you may need to justify the expenses claimed and travel can be a significant deduction against income.

If you would like any further information regarding this or would like us to review your business travel expenses please do not hesitate to contact Angela on 01376 326266.





# The tale of "The Hairy Accountants"

Having spent a good deal of their youth touring the countryside on motorcycles it seemed appropriate that John Smith-Daye and Nigel Whittle got back into the saddle to raise money for The Alzheimer's Society in the UK200Group's national fund raising initiative "Not The Olympics 2012". The challenge involved transporting a torch around the country from firm to firm by any means of transport apart from the modern car.



Having signed up we were allocated the leg to Wisbech which fitted in quite nicely with the mode of transport that we had decided to take and "The Hairy Accountants" were born!

Nigel was hoping to use his 1974 Norton Commando but the excitement of having it restored led him to open it up between Sudbury and Halstead and it was once more off the road. Help was at hand as John was able to lend a 1953 Vincent Comet which had featured in the original photographs and with John deciding upon his favourite 1954 Vincent Rapide all it needed was well wishers and sponsorship to get the show on the road.

We decided to begin at our UK200Group breakfast from the Barn Brasserie and before setting out 50 local professionals heard a brief talk about motorcycling and some Alzheimer facts. From here they headed cross country to Long Melford where they were met by members of the Newmarket and St Neots Rotary clubs who had selected a route through to Newmarket where we were guests at their Rotary lunch.

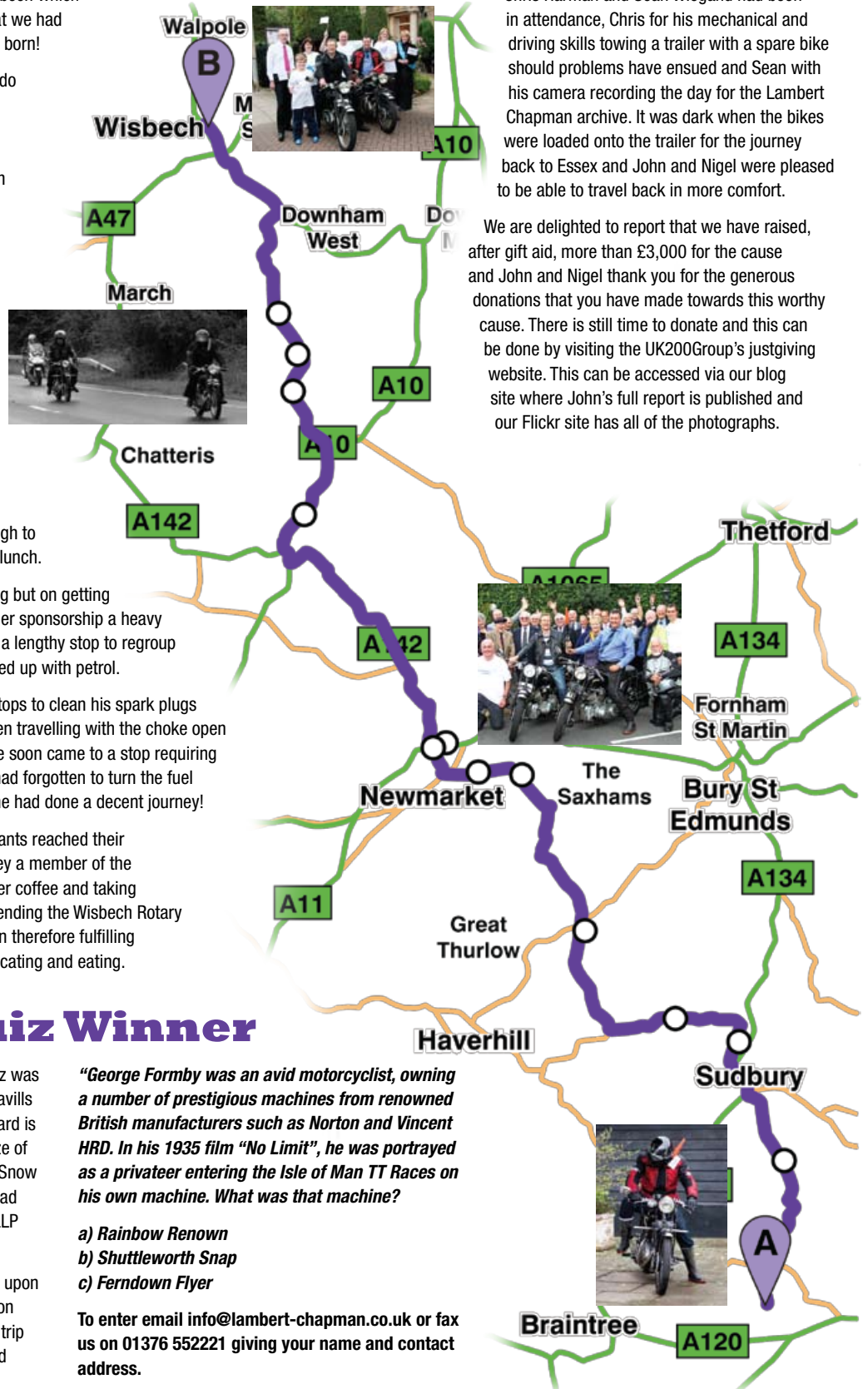
The weather had been passable during the morning but on getting back into the saddle after a decent lunch and further sponsorship a heavy downpour turned our riders into drowned rats and a lengthy stop to regroup was required during which the Vincents were topped up with petrol.

During the day John was forced to make regular stops to clean his spark plugs and at lunchtime he had noticed that Nigel had been travelling with the choke open for most of the journey. After refuelling, Nigel's bike soon came to a stop requiring further examination. It soon came to light that he had forgotten to turn the fuel tap back on... well it had been a long time since he had done a decent journey!

It was little after 4 o'clock when the Hairy Accountants reached their destination at the offices of Bowser Ollard & Bentley a member of the Lawyers arm of the UK200Group. After relaxing over coffee and taking pictures of the handover all that remained was attending the Wisbech Rotary dinner for a final presentation and charity collection therefore fulfilling the role of the Hairy Bikers for the day in communicating and eating.

Chris Harman and Sean Wiegand had been in attendance, Chris for his mechanical and driving skills towing a trailer with a spare bike should problems have ensued and Sean with his camera recording the day for the Lambert Chapman archive. It was dark when the bikes were loaded onto the trailer for the journey back to Essex and John and Nigel were pleased to be able to travel back in more comfort.

We are delighted to report that we have raised, after gift aid, more than £3,000 for the cause and John and Nigel thank you for the generous donations that you have made towards this worthy cause. There is still time to donate and this can be done by visiting the UK200Group's justgiving website. This can be accessed via our blog site where John's full report is published and our Flickr site has all of the photographs.



## Snapshots Quiz Winner



The winter Snapshots quiz was won by Edward Rout of Savills in Bishops Stortford. Edward is pictured receiving his prize of £100 of vouchers for the Snow Centre in Hemel Hempstead from Lambert Chapman LLP partner Paul Short.

*"George Formby was an avid motorcyclist, owning a number of prestigious machines from renowned British manufacturers such as Norton and Vincent HRD. In his 1935 film "No Limit", he was portrayed as a privateer entering the Isle of Man TT Races on his own machine. What was that machine?"*

- a) Rainbow Renown
- b) Shuttleworth Snap
- c) Ferndown Flyer

To enter email [info@lambert-chapman.co.uk](mailto:info@lambert-chapman.co.uk) or fax us on 01376 552221 giving your name and contact address.

It seems appropriate that the Autumn quiz focuses upon motorcycles and John has set the following question for which the winner will receive a complimentary trip on the back of John's bike as his passenger around "Lambert Chapman Country."